

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

Third Party-Payor Cases

MDL No. 2804

Case No. 1:17-md-2804

Judge Dan Aaron Polster

**PHARMACY DEFENDANTS' STATEMENT REGARDING TPP PLAINTIFFS'
MOTION TO CERTIFY SETTLEMENT CLASSES**

The Pharmacy Defendants¹ are not parties to the proposed third-party payor (“TPP”) class settlements currently before the Court. The Pharmacy Defendants nevertheless submit this statement because they are defendants in numerous TPP cases in the MDL. Seven of the eight proposed TPP settlement class representatives, which include all four TPP bellwether plaintiffs, are simultaneously pursuing claims in other MDL cases against the Pharmacy Defendants.²

The Pharmacy Defendants take no position on whether the Court should grant the current motion to certify a TPP settlement class as to other defendants. However, the Pharmacy Defendants do so only with the express understanding that any findings by the Court or order of the Court will not prejudice arguments the Pharmacy Defendants may later

¹ The Pharmacy Defendants include the following parties and related entities: CVS Pharmacy, Inc.; Walgreen Co.; Walgreen Eastern Co., Inc.; and Walmart Inc.

² See *Cleveland Bakers & Teamsters Health & Welfare Fund and Pipe Fitters Local Union No. 120 Ins. Fund v. Purdue Pharma, L.P., et al.*, No. 1:18-op-45432; *Flint Plumbing & Pipefitting Industry Health Care Fund v. Purdue Pharma L.P., et al.*, No. 1:19-op-45430; *Louisiana Assessors Ins. Fund v. AmerisourceBergen Drug Corp., et al.*, No. 1:18-op-46223 (TPP bellwether case); *Pioneer Telephone Coop. Inc. Employee Benefits Plan v. Purdue Pharma, L.P., et al.*, No. 18-op-46186 (TPP bellwether case); *Sheet Metal Workers Local No. 25 Health & Welfare Fund v. Purdue Pharma, L.P., et al.*, No. 1:18-op-45002 (TPP bellwether case); *United Food & Commercial Workers Health & Welfare Fund of Northeastern Penn. v. Purdue Pharma, L.P., et al.*, No. 1:17-op-45177 (TPP bellwether case).

make in response to a motion to certify a class, either by one of proposed settlement class representatives or by any other TPP. The Pharmacy Defendants explicitly preserve and do not waive all such arguments. Indeed, the Pharmacy Defendants have no ability at this stage of the proceedings to develop the necessary discovery record and present all relevant factual and legal arguments regarding each of the Rule 23(a) and Rule 23(b)(3) requirements for class certification.

Accordingly, the Pharmacy Defendants expressly reserve all rights and all arguments in response to any potential motion to certify a class that includes TPPs, including all arguments about whether the record at that time satisfies each of the requirements for class certification under Fed. R. Civ. P. 23.

Dated: November 4, 2024

Respectfully submitted,

/s/ Kaspar J. Stoffelmayr
Kaspar J. Stoffelmayr
Katherine M. Swift
Matthew R. Ford
BARTLIT BECK LLP
54 West Hubbard Street
Chicago, IL 60654
Phone: (312) 494-4400
kaspar.stoffelmayr@bartlitbeck.com
kate.swift@bartlitbeck.com
matthew.ford@bartlitbeck.com

*Counsel for Walgreen Co. and Walgreen
Eastern Co., Inc.*

/s/ Tina M. Tabacchi

Tina M. Tabacchi

Tara A. Fumerton

JONES DAY

111 North Wacker, Suite 4800

Chicago, IL 60606

Phone: (312) 782-3939

tmtabacchi@jonesday.com

tfumerton@jonesday.com

Counsel for Walmart Inc.

/s/ Eric R. Delinsky

Eric R. Delinsky

Alexandra W. Miller

Paul B. Hynes, Jr.

ZUCKERMAN SPAEDER LLP

1800 M. Street NW, Suite 1000

Washington, DC 20036

Phone: (202) 778-1800

edelinsky@zuckerman.com

smiller@zuckerman.com

phynes@zuckerman.com

Counsel for CVS Pharmacy, Inc.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the foregoing document was served via the Court's ECF system on all counsel of record on November 4, 2024.

/s/ Kaspar J. Stoffelmayr
Kaspar J. Stoffelmayr

*Counsel for Walgreen Co., and Walgreen Eastern
Co., Inc.*